

9 FAM 41.83 CERTAIN WITNESSES AND INFORMANTS

(TL:VISA-159; 12-20-96)

(a) General.

(TL:VISA-135; 2-29-96)

An alien shall be classifiable under the provisions of INA 101(a)(15)(S) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and

(2)(i) The consular officer has received verification from the Department of State, Visa Office, that:

(A) in the case of INA 101(a)(15)(S)(i) the INS has certified on behalf of the Attorney General that the alien is accorded such classification, or

(B) in the case of INA 101(a)(15)(S)(ii) the Assistant Secretary of State for Consular Affairs on behalf of the Secretary of State and the INS on behalf of the Attorney General have certified that the alien is accorded such classification;

(ii) and the alien is granted an INA 212(d)(1) waiver of any INA 212(a) ground of ineligibility known at the time of verification.

[Added by 61 FR 1837; Jan. 24, 1996.]

(b) Certification of S visa status.

(TL:VISA-135; 2-29-96)

The certification of status under INA 101(a)(15)(S)(i) by the Attorney General or of status under INA 101(a)(15)(S)(ii) by the Secretary of State and the Attorney General acting jointly does not establish that the alien is eligible to receive a nonimmigrant visa.

[Added by 61 FR 1837; Jan. 24, 1996.]

(c) Validity of Visa.

(TL:VISA-135; 2-29-96)

The period of validity of a visa authorized on the basis of paragraph (a) of this section shall not exceed the period indicated in the certification required in paragraph (b) and shall not in any case exceed the period of three years.

[Added by 61 FR 1837; Jan. 24, 1996.]

9 FAM 41.83 Related Statutory Provisions

INA 101(a)(15)(S)

(TL:VISA-159; 12-20-96)

“(S) subject to section 214(k), an alien—

(i) who the Attorney General determines—

“(I) is in possession of critical reliable information concerning a criminal organization or enterprise;

“(II) is willing to supply or has supplied such information to Federal or State law enforcement authorities or a Federal or State court; and

“(III) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization enterprise; or

“(ii) who the Secretary of State and the Attorney General jointly determine—

“(I) is in possession of critical reliable information concerning a terrorist organization, enterprise or operation;

“(II) is willing to supply or has supplied such information to Federal law enforcement authorities or a Federal court;

“(III) will be or has been placed in danger as a result of providing such information; and

“(IV) is eligible to receive a reward under section 36(a) of the State Department Basic Authorities Act of 1956, and, if the Attorney General (or with respect to clause (ii), the Secretary of State and the Attorney General jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i) or (ii) if accompanying, or following to join, the alien.”

[Added by Pub. L. 103-322; Sept. 13, 1994.] [Amended by Sec. 671(a)(3)(B) of Pub. L. 104-208, Sept. 30, 1996.]

INA 212(d)(1)

(TL:VISA-159; 12-20-96)

“(1) The Attorney General shall determine whether a ground for exclusion exists with respect to a nonimmigrant described in section 101(a)(15)(S). The Attorney General, in the Attorney General’s discretion, may waive the application of subsection (a) (other than paragraph (3)(E) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting *removal* proceedings against an alien admitted as a nonimmigrant under section 101(a)(15)(S) for conduct committed after the alien’s admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien’s admission as a nonimmigrant under section 101(a)(15)(S).”

[Added by Pub. L. 103-322; Sept. 13, 1994.] [Amended by Sec. 308(e)(1)(B) of Pub. L. 104-208 of Sept. 30, 1996.]

INA 214(k)(1)

(TL:VISA-159; 12-20-96)

Sec. 214(k)(1) The number of aliens who may be provided a visa as nonimmigrants under 101(a)(15)(S)(i) in any fiscal year may not exceed 200. The number of aliens who may be provided a visa as nonimmigrants under 101(a)(15)(S)(ii) in any fiscal year may not exceed 50.

[Added by sec. 621 of Pub. L. 104-208; Sept. 30, 1996.] [Amended by sec. 671(a)(3)(B) of Pub. L. 104-208, Sept. 30, 1996.]